UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

LLOYD F. AUDETTE, Plaintiff, v. UMASS CORRECTIONAL HEALTH, a Commonwealth Medical Program, and DEPARTMENT OF CORRECTIONS, Kathleen M. Dennehy, Commissioner, Defendants.	CIVIL ACTION NO. 05-10403-DPW

STATUS REPORT

NOW COMES the Plaintiff, Lloyd Audette ("Mr. Audette"), and hereby submits this Status Report pursuant to the Court's Procedural Order dated May 9, 2005.

A. BACKGROUND

On or about February 24, 2005, Mr. Audette, a pro se prisoner incarcerated at the Souza-Baranowski Correctional Center ("SBCC") in Shirley, Massachusetts, filed a Complaint in the above-referenced matter. On or about May 2, 2005, Mr. Audette filed a Motion to Amend the Complaint and the Pleadings, a renewed Motion for Temporary Restraining Order, and a Motion to Appoint Counsel, among others. This Court appointed Bingham McCutchen LLP as counsel for Mr. Audette on or about Monday, May 9, 2005.

Donald J. Savery and Brandon L. Bigelow from Bingham McCutchen LLP met with Mr. Audette on Monday, May 9, 2005. On Tuesday, May 10, 2005, counsel for Mr. Audette requested a copy of Mr. Audette's updated medical record from UMass Correctional Health ("UMass Medical"). Although that record has not yet been received, on Wednesday, May 11, 2005, counsel for Mr. Audette requested a copy of Mr. Audette's medical record from the Court, filed by UMass Medical on or about March 15, 2005. Counsel for Mr. Audette received that record from the Court on Thursday, May 12, 2005, and engaged Howard Libman, M.D.,

Director, HIV Program, Healthcare Associates, at Beth Israel Deaconess Medical Center ("Dr. Libman") to assess Mr. Audette's medical record as of March 15, 2005 and provide a preliminary assessment of Mr. Audette's condition on admittedly incomplete information. Brandon L. Bigelow met with Mr. Audette again on Friday, May 13, 2005.

B. PENDING MOTIONS

Counsel for Mr. Audette do not presently possess sufficient information to respond to the statements by UMass Medical in its Status Report concerning Mr. Audette's Motion to Amend Complaint and Renewed Motion for Temporary Restraining Order, motions that were filed before the appointment of Bingham McCutchen LLP as counsel. Counsel for Mr. Audette will make a more fulsome report to the Court in this regard after having an opportunity to review Mr. Audette's complete medical record, and hopes to conduct this review prior to the May 24, 2005 status conference ordered by the Court.

C. MR. AUDETTE'S MEDICAL STATUS

Counsel for Mr. Audette do not presently possess sufficient information to respond to the statements by UMass Medical in its Status Report concerning Mr. Audette's medical condition. Dr. Libman could provide only a preliminary assessment of Mr. Audette's medical condition as of March 15, 2005, based upon an incomplete medical record and additional information provided indirectly by Mr. Audette. That preliminary assessment, attached as Exhibit A, highlights three areas of concern requiring immediate action by UMass Medical:

1. Assess whether a change to Mr. Audette's present HIV treatment regimen is warranted;
2. Assess Mr. Audette's recent weight loss and treat as appropriate; and
3. Assess whether Mr. Audette is receiving adequate treatment for pain associated with neuropathy, among other causes.

Mr. Audette was seen by a doctor at Lemuel Shattuck Hospital on May 11, 2005, and understands that an HIV specialist will next be available at SBCC on Tuesday, May 17, 2005. Mr. Audette did not know, as of Friday, May 13, 2005, whether he would be scheduled to see the

HIV specialist on May 17, 2005. According to the Status Report filed by UMass Medical, Mr. Audette will see a Dr. Stone later this week.

Counsel for Mr. Audette continue to work to gather Mr. Audette's medical records from several sources, including without limitation the New England Medical Center and the Lemuel Shattuck Hospital, and hope to have assembled a complete record shortly. To the extent that UMass Medical can expedite the production of a complete copy of Mr. Audette's medical record, that process can be completed within a relatively short time.

D. CONCLUSION

Counsel for Mr. Audette do not presently possess sufficient information to respond to the conclusion contained in the Status Report filed by UMass Medical. Dr. Libman's preliminary assessment highlights three areas of concern for immediate attention by UMass Medical. Once counsel for Mr. Audette have had the opportunity to review Mr. Audette's entire medical record, they will be better able to respond to the statements made by UMass Medical.

Respectfully submitted,

/s/ Brandon L. Bigelow

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Dated: May 16, 2005

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the above document was served upon counsel of record for each other party via the CM/ECF system on May 16, 2005.

/s/ Brandon L. Bigelow
Brandon L. Bigelow

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Information in this report is based upon my review of the plaintiff's detailed medical record and conversations with Brandon L. Bigelow, Esq.

Lloyd F. Audette is a 46 year old man infected with **HIV** and **hepatitis C virus (HCV)**.

Background

He was diagnosed with HIV infection about twenty years ago. He has had significant immune dysfunction, and his course has been complicated by recurrent episodes of *Pneumocystis carinii* pneumonia (PCP). He has been treated in the past with a variety of antiretroviral drugs and is currently on the combination of didanosine (ddI, Videx), lamivudine (3TC, Epivir), and efavirenz (EFV, Sustiva).

He was diagnosed with HCV (genotype 1A) several years ago and started on treatment for this infection in January, 2005, with pegylated interferon and ribavirin. Also of note is that he has lost approximately 25 pounds over the past six months.

His **past medical history** is also noteworthy for peripheral neuropathy, peptic ulcer disease, chronic pain syndrome, glucose intolerance, hyperlipidemia, multiple traumatic injuries, remote hepatitis B infection, remote hepatitis A infection, and polysubstance abuse.

His **medications** include ddI, 3TC, EFV, TMP-SMX (for PCP prevention), pegylated interferon, ribavirin, methadone (for chronic pain), and pantoprazole (for peptic ulcer disease). He is allergic to codeine.

His recent CD4 cell counts and viral loads are as follows:

	CD4 Count	Viral Load
11/04	185	< 75
2/05	137	< 75
4/05	77	< 75

More recently, he reportedly developed a significant retinal problem in the right eye, which resulted in loss of vision, and his HCV treatment and methadone have been interrupted. He continues on the other medications listed above.

Discussion

The management of Mr. Audette's HIV infection includes a combination of medications (two nucleoside reverse transcriptase inhibitors [ddI, 3TC] and a non-nucleoside reverse transcriptase inhibitor [EFV]) that has effectively suppressed his viral load. His recent decrease in CD4 cell count (surrogate marker of immune function) is likely related to interferon therapy, which is known to be associated with this trend. This finding does not require a modification of his antiretroviral regimen but should have prompted his health care providers to be sure he was on appropriate drugs to prevent the occurrence of opportunistic infections (OIs). These would include TMP-SMX, which it appears was started in March, 2005 (indication is CD4 count < 200), for PCP, and possibly additional drugs for the prevention of other OIs (*Mycobacterium avium* complex [MAC] and cytomegalovirus [CMV] infections) if his more recent CD4 counts dropped below 50. I would be interested in knowing more about his recent "retinal problem" to determine if it could have been related to CMV infection.

Although Mr. Audette's antiretroviral regimen has been effective, it is problematic to maintain this combination of medications in a patient receiving treatment for HCV infection. Specifically, the antiretroviral drug ddI should not be coadministered with the anti-HCV drug ribavirin because of an increased risk of severe lactic acidosis (which may be life-threatening), peripheral neuropathy, and pancreatitis. In this setting, it would have been appropriate to substitute another drug for ddI and maintain his treatment for HCV if it was deemed effective. Even in the absence of HCV treatment, it would be preferable to substitute another drug for ddI in that peripheral neuropathy is its major toxicity.

I am uncertain as to why Mr. Audette's health care providers decided to interrupt his methadone treatment. Although antiretroviral drugs can interact with methadone (specifically, in this case, EFV is known to decrease the methadone blood level), modification of its dose should satisfactorily address this issue.

Lastly, the patient has lost a considerable amount of weight over the past six months. While weight loss can be seen in advanced HIV disease ("AIDS wasting syndrome"), it has a large differential diagnosis and requires appropriate evaluation.

Howard Libman

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May 16, 2005